

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

RAUL RODRIGUEZ

*Plaintiff,*

v.

GREAT LAKES INSURANCE SE

*Defendant.*

§  
§  
§  
§  
§  
§  
§  
§  
§

CASE NO. 1:19-cv-49

**NOTICE OF REMOVAL**

TO THE HONORABLE JUDGE OF THE UNITED STATES DISTRICT COURT:

Defendant GREAT LAKES INSURANCE SE, in a cause styled *Raul Rodriguez v. Great Lakes Insurance SE*, originally pending as Cause No. 2019-DCL-00110 in the 445<sup>th</sup> Judicial District Court of Cameron County, Texas, hereby respectfully files this Notice of Removal of that cause to the United States District Court for the Southern District of Texas, Brownsville Division, while fully reserving all rights and defenses, and as grounds therefore would respectfully show the Court as follows:

**NATURE OF THE PENDING STATE CASE**

1. On or about February 15, 2019, Raul Rodriguez (“Plaintiff”) filed a civil action styled *Raul Rodriguez v. Great Lakes Insurance SE*, under Cause No. 2019-DCL-00110 in the 445<sup>th</sup> Judicial District Court of Cameron County, Texas.

2. This case is an insurance dispute wherein Plaintiff alleges in his Original Petition that his properties located at 1701 and 1701½ East Jackson Street, Harlingen, Texas 78550, 1802 – 1804 Rio Hondo Road, Harlingen, Texas 78550, and 1806 – 1808 Rio Hondo Road, Harlingen, Texas 78550, insured under an insurance policy issued by Defendant, sustained damage during a

wind and hailstorm occurring on or about August 26, 2017. Plaintiff further alleges causes of action for breach of contract, violations of the Texas Insurance Code, and breach of the duty of good faith and fair dealing.

3. Defendant has attached the documents required to be filed with this Notice of Removal in compliance with Local Rule 81.<sup>1</sup>

### **JURISDICTION**

4. Pursuant to 28 U.S.C. §1441(a), Defendant removes this action to the District Court of the United States for the Southern District of Texas, Brownsville Division, because it is the District and Division embracing the place where such action is pending. Although, Plaintiff incorrectly states in his petition that the subject properties are located in Nueces County, Texas, each of these properties is located in Harlingen, Texas, which is in Cameron County, not Nueces County, and Plaintiff filed this suit in Cameron County. Additionally, this Court has diversity jurisdiction, as shown below, because the parties are citizens of different countries and the amount in controversy exceeds \$75,000.00, exclusive of interests and costs.

#### **A. Diversity of the Parties**

5. Plaintiff's Complaint fails to state where he resides, but upon information and belief, Plaintiff is a citizen of Texas.<sup>2</sup> Defendant is a Societas Europea incorporated in Germany and registered with the commercial register of the local court of Munich under number HRB 230278. Defendant's registered office is at Königinstraße 107, 80802 Munich, Germany.

---

<sup>1</sup> Plaintiff's Original Petition, attached hereto as Exhibit "A;" Proof of Service, attached hereto as Exhibit "B;" An Index of Matters Being Filed, attached hereto as Exhibit "C;" Copy of State Court Docket Sheet, attached hereto as Exhibit "C-1;" Copy of Process, attached hereto as Exhibit "C-2;" List of All Counsel of Record, attached hereto as Exhibit "C-3;" and Civil Cover Sheet, attached hereto as Exhibit "C-4."

<sup>2</sup> See generally, Exhibit "A."

**B. Amount in Controversy**

6. Plaintiff's Complaint states that the amount in controversy exceeds \$100,000.00.<sup>3</sup>

**TIMING OF REMOVAL**

7. Defendant was served with this lawsuit on February 22, 2019 by serving the Texas Commissioner of Insurance.<sup>4</sup> Defendant received actual notice of this lawsuit on March 11, 2019. Therefore, this Notice of Removal is being filed within 30 days of service of the petition pursuant to 28 U.S.C. §1446(b), and is filed less than one year after commencement of the action, pursuant to 28 U.S.C. §1446(c). This Notice is therefore timely filed.

**NOTICE TO ADVERSE PARTIES AND STATE COURT**

8. As the removing party, Defendant will give Plaintiff prompt written notice of this Notice of Removal pursuant to 28 U.S.C. §1446(d).

9. Defendant will also file a copy of this Notice of Removal with the 445<sup>th</sup> Judicial District Court of Cameron County, Texas, where the state court action is currently pending, as required by 28 U.S.C. §1446(d).

**ANSWER**

10. Defendant has not filed any responsive pleadings in the state court action, except the Notice of Removal as required by the Federal Rules of Civil Procedure. Defendant will file an Answer to Plaintiff's lawsuit in this Honorable Court.

**JURY DEMAND**

11. Defendant hereby requests a trial by jury pursuant to Rule 38 of the Federal Rules of Civil Procedure.

---

<sup>3</sup> Exhibit "A," at p. 1.

<sup>4</sup> See Exhibit "B."

### CONCLUSION AND PRAYER

12. In light of the foregoing, Defendant respectfully removes this civil action styled *Raul Rodriguez v. Great Lakes Insurance SE*, under Cause No. 2019-DCL-00110 in the 445<sup>th</sup> Judicial District Court of Cameron County, Texas.

13. Defendant prays for such other and further relief, both general and special, at law and in equity, to which it may show itself justly entitled.

Respectfully submitted by,

/s/ Les Pickett

Les Pickett

“Attorney-in-Charge”

Federal I.D. No. 14306

State Bar No. 15980520

William D. Abbott

Federal I.D. No. 2789456

State Bar No. 24087069

OF COUNSEL:

GALLOWAY, JOHNSON, TOMPKINS,  
BURR & SMITH

1301 McKinney Suite 1400

Houston, Texas 77010

(713) 599-0700 – Telephone

(713) 599-0777 – Facsimile

**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of March 2019, a copy of the above and foregoing Notice of Removal was filed electronically with the Clerk of Court using the CM/ECF system, which will send a notice of electronic filing to all CM/ECF participants.

Omar Ochoa  
OMAR OCHOA LAW FIRM  
121 North 10<sup>th</sup> Street  
McAllen, Texas 78501  
***Attorney for Plaintiff***

/s/ William D. Abbott

Les Pickett

William D. Abbott